

IN THE UNITED STATES DISTRICT COURT

FOR THE NORTHERN DISTRICT OF CALIFORNIA

11 BEN HARBOR,

No. C-05-5211 MMC

12 Plaintiff,

**ORDER RE: MOTION FOR REMAND**

13 v.

14 ALAMEDA-CONTRA COSTA TRANSIT  
DISTRICT,

15 Defendant.

16 \_\_\_\_\_ /

17 Before the Court is plaintiff's "Motion for Remand," filed May 12, 2009 and set for  
18 hearing June 26, 2009, in which plaintiff asserts the sole federal claim in the above-titled  
19 action "is no longer viable and [p]laintiff has moved to drop this claim from his lawsuit."  
20 (See Mot. at 2:1-3.) On June 8, 2009, defendant filed a "Statement of Non-Opposition,"  
21 conditioned on plaintiff's dismissal of his federal claim,<sup>1</sup> and with the hope of "obviat[ing] the  
22 need for a formal hearing on the matter." (See Statement of Non-Opp'n at 1:21-22.)  
23 Nevertheless, as defendant points out, and contrary to plaintiff's assertion, plaintiff to date  
24 has not "moved to drop" or, in any other words, moved to dismiss his federal claim.  
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26 Accordingly, the Court hereby DIRECTS the parties to meet and confer on or before  
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28 \_\_\_\_\_  
<sup>1</sup>Although defendant refers to such claim as plaintiff's "first cause of action" (see  
Statement of Non-Opp'n at 1:19-20), plaintiff's federal claim is in fact pleaded in his Second  
Cause of Action.

1 Wednesday, June 24, 2009, for the purpose of arriving at a mutually acceptable stipulation  
2 as to the dismissal of plaintiff's federal claim and remand of plaintiff's remaining claims. If  
3 such stipulation is reached and filed prior to the date of the hearing, the Court will issue an  
4 appropriate order thereon, and the hearing will be vacated.

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6 **IT IS SO ORDERED.**

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8 Dated: June 22, 2009

  
MAXINE M. CHESNEY  
United States District Judge

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